



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COAST FOUNDATION SOCIETY (1974)
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause, dated December 14, 2017 ("1 Month Notice"), pursuant to section 66; and
- cancellation of the landlord's 1 Month Notice, pursuant to section 47.

The tenant did not attend this hearing, which lasted approximately 21 minutes. The landlord's agent, AW ("landlord") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the property manager for the landlord company named in this application and that she had authority to speak on its behalf as an agent at this hearing.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package. In accordance with sections 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application.

The landlord confirmed that the tenant was personally served with the landlord's written evidence package on February 7, 2018. In accordance with section 88 of the *Act*, I find that the tenant was personally served with the landlord's written evidence package on February 7, 2018.

The landlord testified that the tenant was served with the landlord's 1 Month Notice on December 14, 2017, by way of posting to his rental unit door. The notice indicates an effective move-out date of January 31, 2018. In accordance with sections 88 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's 1 Month Notice on December 17, 2017, three days after its posting. I also note that the tenant applied to cancel this 1 Month Notice.

Preliminary Issue – Dismissal of Tenant's Application

Rule 7.3 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* provides as follows:

7.3 Consequences of not attending the hearing: If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

In the absence of any evidence or submissions from the tenant, I order the tenant's entire application dismissed without leave to reapply.

Issues to be Decided

Should the landlord's 1 Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

The landlord testified regarding the following facts. This month-to-month tenancy began on November 1, 2013. Monthly rent in the amount of \$375.00 is payable on the first day of each month. No security deposit was required or paid by the tenant for this tenancy. Both parties signed a written tenancy agreement.

The landlord issued the 1 Month Notice for the following reason:

Tenant or a person permitted on the property by the tenant has:

- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*

The landlord claimed that a previous RTB hearing between these parties and this tenancy was held and a decision, dated March 25, 2015, was made by a different Arbitrator. She said that the parties settled their dispute in that hearing and the tenant agreed to abide by certain behavioural conditions to control his violence and aggression. She stated that the tenant did well in doing so, but since June 2017, he has reverted to this behaviour again. She claimed that in the previous decision the tenant was warned that if he reverted back to this behaviour, no further warning notices needed to be given to him, aside from a 1 Month Notice, since the hearing was ample warning of his transgressions.

The landlord testified that the tenant has been violent and aggressive towards two of the landlord's staff members at the rental building. She said that two police files were opened in response to the tenant's actions.

The landlord claimed that one of the landlord's female cleaning staff members, who works in the rental building, has been harassed by the tenant since June 2017. She said that the tenant corners her, comes close to her, calls her names, follows her down stairwells, and verbally threatens to kill her. She stated that the female staff member filed police charges against the tenant on November 23, 2017. The landlord explained that another male staff member who works in the café, which is attached to the rental building, has been verbally threatened with physical violence by the tenant.

The landlord provided copies of three letters, dated July 20, 2017 and October 30, 2017, and December 18, 2017, that she said were provided to the tenant, warning of his unacceptable threatening behaviour towards the landlord's staff. The landlord claimed that she also sent a summary letter to the tenant on July 20, 2017, regarding similar behaviour on three occasions in June 2017.

The landlord stated that she has tried hard to work with the tenant and give him many chances to improve his behaviour because the landlord company works with people who have addiction problems and are difficult to house. She said that the tenant improved briefly but then reverted back to his previous ways. She testified that his behaviour is dangerous and threatening to the landlord's staff members and that they do not feel safe working at the rental building.

Analysis

According to subsection 47(4) of the *Act*, a tenant may dispute a 1 Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. The tenant was deemed to have received the 1 Month Notice on December 17, 2017, and filed his application to dispute it on January 12, 2018. Therefore, he is not within the time limit under the *Act*. Although the tenant applied for more time to cancel the 1 Month Notice, he did not appear at this hearing in order to provide a reason as to why he applied late.

On a balance of probabilities and for the reasons stated below, I find that the landlord issued the 1 Month Notice for a valid reason since I find that the tenant seriously jeopardized the health, safety and lawful rights of the landlord and its two agents in the rental building.

I accept the testimony of the landlord who confirmed that the tenant has been violent and aggressive with two of the landlord's agents, who are staff members in the rental building. I find that the parties had a previous hearing in March 2015 regarding these issues and the tenant was warned in that decision to stop this behaviour. The tenant was subsequently given four warning letters by the landlord from June to December 2017, regarding this behaviour and the tenant has continued to threaten the staff members to the point where they have filed police charges. One female staff member has to have a male individual accompany her on a daily basis while at the rental building, due to the tenant's threats.

Section 55(1) of the *Act* reads as follows:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [form and content of notice to end tenancy], and*
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.*

As noted above, I dismissed the tenant's application. I find that the landlord's 1 Month Notice complies with section 52 of the *Act*. Accordingly, I find that this tenancy ends on March 31, 2018, as the landlord confirmed during the hearing that the tenant paid rent in full until the end of March 2018. Accordingly, I find that the landlord is entitled to an Order of Possession effective at 1:00 p.m. on March 31, 2018.

Conclusion

I grant an Order of Possession to the landlord effective at 1:00 p.m. on March 31, 2018. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The tenant's entire application is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 14, 2018

Residential Tenancy Branch